IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 29TH MARCH 2007 / 8TH CHAITHRA 1929

CRP.No. 233 of 2007(A)

OA.1/2006 OF WAKF TRIBUNAL, ERNAKULAM

REVN. PETITIONERS: RESPONDENTS 1 & 2 .

1. PERUMPILLICHIRA MUHIYUDHEEN PALLY MAHAL JAMA-ATH COMMITTEE, PERUMPILLICHIRA, REPRESENTED BY ITS SECRETARY, C.K.MUHAMMED KUNJU, S/O.KASSIM, AGED 55 YEARS, CHOORAVELIL HOUSE, PUTHUCHIRAKAVALA PETTENAD KARA, THODUPUZHA VILLAGE, DO TALUK, IDUKKI DISTRICT.

2. T.M.IBRAHIM HAJI, S/O.MYTHEEN, AGED 70 YEARS, THEKKEPULLOLIL HOUSE, MUTHALAKODAM P.O., PUTHUCHIRA KAVALA, PETTENAD KARA, THODUPUZHA VILLAGE, DO TALUK, PERUMPILLICHIRA KARA, THODUPUZHA TALUK, IDUKKI DISTRICT.

BY ADV. SRI.T.H.ABDUL AZEEZ

RESPONDENTS: APPLICANTS & 3RD RESPONDENTS

1. K.M.KASSIM, S/O.MYTHEEN AGED 40 YEARS, KALAPURACKAL HOUSE, PERUMPILLICHIRA KARA, KUMARAMANGALAM VILLAGE, THODUPUZHA TALUK, IDUKKI DISTRICT.

2. A.A.RAHEEM, S/O.ALIYAR, AGED 4O YEARS, ATHIMANNIL HOUSE, PERUMPILLICHIRA KARA, KUMARAMANGALAM VILLAGE, THODUPUZHA TALUK, IDUKKI DISTRICT.

3. V.A.SULAIMAN, S/O.ABDUL KADER, AGED 42 YEARS VETTICKAL HOUSE, PERUMPILLICHIRA KARA, KUMARAMANGALAM VILLAGE, THODUPUZHA TALUK, IDUKKI DISTRICT.

4. ABDUL KHADER, S/O.MUHAMMED, AGED 47 YEARS,
THEKKEKARAYIL HOUSE, PERUMPILLICHIRA KARA,
KUMARAMANGALAM VILLAGE, THODUPUZHA TALUK,
IDUKKI DISTRICT.

5. K.M.HAMSA, S/O.MYTHEEN AGED 42 YEARS,
PADINJARAVEETIL HOUSE, PERUMPILLICHIRA KARA,
KUMARAMANGALAM VILLAGE, THODUPUZHA TALUK,
IDUKKI DISTRICT.

6. T.M.SYNUDEEN, S/O.MOHAMMED, AGED 50 YEARS,
THEKKEKARAYIL HOUSE, PERUMPILLICHIRA KARA,
KUMARAMANGALAM VILLAGE, THODUPUZHA TALUK,
IDUKKI DISTRICT.

7. THE KERALA STATE WAKF BOARD,
REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER,
KALOOR, KOCHI.

R1 TO R6 BY ADV. SRI.P.K.ABOOBACKER(EDAPPALLY)
R7 BY SRI.P.A.ABDUL JABBAR, SC, WAKF BOARD

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 29/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KURIAN JOSEPH & K.T. SANKARAN, JJ.

C.R.P. NO. 233 OF 2007 A

Dated this the 29th day of March, 2007

O R D E R

Sankaran, J.

The Revision is filed by respondents 1 and 2 in W.O.A.No.1 of 2006, on the file of the Wakf Tribunal, Ernakulam. By the order impugned, the Wakf Tribunal allowed the application and it was declared that the committee headed by the second respondent before it was not a properly elected committee. The Wakf Tribunal directed that fresh election shall be conducted at the earliest in accordance with the bylaws, under the supervision of a Returning Officer to be appointed by the Wakf Tribunal. A panel of eligible lawyers was called for from the parties and it is submitted that the panel has been made available.

2. The only submission made by the learned counsel for the petitioners is that as per the order impugned, the Tribunal directed the Commissioner to prepare a voters' list after a door to door census.

Counsel for the Revision Petitioners submitted that this will cause heavy expenses and that the Jama-ath need not be burdened with this financial liability by such a process. The learned counsel appearing for the respondents submitted that the Commissioner has to be given freedom to complete the work in the matter and that it is not necessary to have a door to door census as mentioned in the order. The counsel for respondents 1 to 6 submitted that the concern of the respondents is only that a fair and free election shall be conducted in accordance with the bylaws. The learned counsel for the petitioners have no objection to this suggestion.

3. After having heard the counsel for the parties as well as the Standing Counsel for the Wakf Board, we are of the view that the direction issued by the Tribunal that the Commissioner shall conduct a door to door census is uncalled for in the facts and circumstances of the case. The Commissioner shall be free to prepare the voters' list in accordance with the bylaws of the Jama-ath and shall conduct the election

as directed by the Tribunal in accordance with law and in accordance with the bylaws of the Jama-ath.

The Civil Revision Petition is disposed of accordingly.

(KURIAN JOSEPH)
Judge

(K.T.SANKARAN)
Judge

ahz/